

SITE DEVELOPMENT PERMIT

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| FILE NO. | H18-023 |
| LOCATION OF PROPERTY | 291 San Jose Avenue (Northwest side of San Jose Avenue, approximately 560 feet northeasterly of Almaden Expressway) |
| ZONING DISTRICT | Heavy Industrial |
| GENERAL PLAN DESIGNATION | Heavy Industrial |
| PROPOSED USE | Site Development Permit to allow the demolition of an approximately 900-square foot single family house, the removal of 1 ordinance-size tree and 12 non-ordinance sized trees, and the construction of a 5,948-square foot warehouse building on an approximately 0.23-gross acre site. |
| ENVIRONMENTAL STATUS | Exempt per CEQA Guidelines Section 15303(c) |
| APPLICANT ADDRESS | Aberle Concrete, Excavating & Grading Attn: Stephen Lang 42100 Boscell Road, Fremont, CA 94538 |
| OWNER ADDRESS | Hunter Wyatt, LLC 42100 Boscell Road, Fremont, CA 94538 |

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** A Site Development Permit is requested to demolish the existing approximately 900-square foot single family house and construct a 5,948-square foot, 30-foot tall warehouse building on an approximately 0.23-gross acre site. This warehouse building would be located at the rear half of the site, and the parking lot, a trash enclosure and landscaping would be located in the front. A new 26-foot wide driveway would provide vehicle ingress and egress into the site from San Jose Avenue. The project would also include the removal of one ordinance tree at the front and 12 non-ordinance sized trees at the rear of the site.

2. **Site Description and Surrounding Uses.** The subject site is currently developed with an approximately 900-square foot single-family house at the front. The existing house was built in around 1900. The site is within an industrial area, surrounded by a single-family house to the northeast, an auto repair shop to the southeast across San Jose Avenue, an auto body shop to the southwest, and a truck repair shop to the northwest.
3. **General Plan Conformance.** The subject site has a Heavy Industrial land use designation on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation is intended for industrial users with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. The proposed warehouse use is consistent with the Heavy Industrial General Plan Land Use designation.
4. **Zoning Conformance.** The subject site is located in the HI Heavy Industrial Zoning District. The following development standards are applicable to the project:
 - a. **Land Use:** Pursuant to Table 20-110 in [Section 20.50.100](#) of the San José Municipal Code, a warehouse use is a permitted use in the Heavy Industrial Zoning District.
 - b. **Parking:** Table 20-190 of the San José Municipal Code requires a minimum of 5 vehicle parking spaces for warehouses with a total gross floor area between 5,000 square feet and 25,000 square feet. The required vehicle parking for the project would be 5 parking spaces because the proposed warehouse building's gross floor area is 5,948 square feet. The project would provide 5 vehicle parking spaces on site. The project would require three bicycle parking spaces including one long-term bicycle parking space and two short-term bicycle parking spaces pursuant to Zoning Code Section 20.90.060. B.3. The project would provide one long-term bicycle parking space and two short-term bicycle parking spaces in front of the building. The project would also require three motorcycle parking spaces pursuant to Zoning Code Section 20.90.350.B. The project would provide three motor cycle parking spaces on site. The project meets the minimum parking requirements.
 - c. **Setbacks and Height:** [Section 20.50.200](#) establishes the required setbacks and height for the Heavy Industrial Zoning District in Table 20-120. Buildings and parking in the Heavy Industrial Zoning District should have a minimum 15-foot front setback. There is no minimum required rear or side setbacks. *Consistent with the Zoning Ordinance, the proposed warehouse building would be set back approximately 88 feet from the front property line. The proposed trash enclosure would be setback 15 feet from the front property line, and the parking lot would be setback approximately 28 feet from the front property line. The proposed warehouse building would have a zero-foot setback along the side and rear property lines. The Heavy Industrial Zoning District allows a maximum height of fifty feet and the proposed building would be 30 feet in height.*
 - d. **Lighting:** Pursuant to [Section 20.50.240](#) of Title 20, all lighting or illumination shall conform with any lighting policy adopted by the city council. Light fixture heights should not exceed eight feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. No ground mounted light fixture shall exceed twenty-five feet in height. *The project proposes 6 outdoor light fixtures. Two are ground mounted lights 15 feet in height, located near the southern property line, approximately 50 feet from the residential use to the north. Two are wall sconces eight*

feet in height. Two are walk lights, near the northern property line and has a height of 3 feet. All lights are directed downwards. The project complies with this Lighting section.

- e. **Landscaping:** Pursuant to Section [20.50.260.3](#) of Title 20, a ten-foot-wide landscape buffer and a seven-foot-high property line masonry wall is required when a driveway, service yard, loading area or parking lot is adjacent to residential uses. *The existing use of the adjacent site at 287 San Jose Avenue (to the north of the site) is single-family residential. The project includes a seven-foot tall masonry wall along the northern property line, a 7-foot wide landscape strip and a 4-foot wide pedestrian path along the northern property line. Given the narrow width (56 feet more or less) of the project site, it would be impossible to increase the landscape strip width while accommodating the parking spaces, driveway and pedestrian path. Although the landscape strip width is less than 10 feet, the buffer for the residential use and the proposed parking space would be 11 feet in total, which meets the intent of this code section to provide at least 10-foot buffer between the residential use and the parking lot.*

5. **Industrial Design Guidelines:** Industrial projects should be designed in compliance with the Industrial Design Guidelines. Per the Industrial Design Guidelines, without limiting the potential for architectural innovation, simpler buildings should contain differentiated elements using details at the base and eave or cornice line. Exterior building treatments, including colors, materials and architectural detailing, should be consistent and wrap around all elevations to avoid blank walls adjacent to other uses.

The proposed building has zero setback along the side and rear property lines. Per Building and Fire Code, window openings are not allowed on these three sides. To avoid blank walls on those three sides, split-face design is incorporated. The project design provides variation in colors and materials that consistently apply to all sides of the building. The building's front façade includes a balcony with metal guardrail and a metal canopy from the mezzanine level, which helps distinguish the building's office entry and break the box like appearance.

The Industrial Design Guidelines also requires the perimeter of the site to be landscaped to screen parking, buffer adjacent uses and provide an attractive view from the street.

Landscaping along streets should combine a mix of trees, shrubs, and ground cover in the area between buildings and the sidewalks. A minimum 15-foot wide landscape strip along all street frontages with parking lots is required.

The project includes a 7-foot wide perimeter landscape strip along the northern property line, a 5-foot landscape strip along the southern property line, and a 15-foot landscape strip along the front property line. These landscape areas would include trees, shrubs and ground covers. The project site is long and narrow. A covered trash enclosure is proposed to be located at the front due to the site constraints. This trash enclosure would be screened by this 15-foot wide landscape strip along the front property line.

Based on the above analysis, the project is consistent with the Industrial Design Guidelines.

6. **Site Development Permit Findings.** Section 20.100.630 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: As noted above, the proposed project has a Land Use/Transportation Diagram Designation of Heavy Industrial. This designation is intended for industrial users with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. The proposed warehouse use is consistent with the Heavy Industrial General Plan Land Use designation.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: As noted above, the proposed warehouse project is consistent with the development standards of the HI Heavy Industrial Zoning District. The project conforms with the height requirement, setback, parking provisions, the requirement of providing a buffer to the adjacent residential use, and the requirements of outdoor lighting.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The proposed project is consistent with all applicable City Council policies. Compliant with Council Policy 6-30: Public Outreach Policy, a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The project is also consistent with the Outdoor Lighting Policy in that all the proposed outdoor lighting are directed downwards.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: There is one building and one trash enclosure structure on-site. The site is long and narrow. Due to this site constraint, this warehouse building is proposed to be located at the rear half of the site and the parking and vehicular circulation are located at the front. The trash enclosure is hence located at the front to be easily accessible from the vehicular circulation area. The warehouse building has office space orient to the front to create visual interest to the front façade. The color and material of the trash enclosure match the warehouse building.

- e. The orientation, location, and elevation of the proposed buildings and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project site is located within an industrial area and is surrounded by industrial buildings except the single-family house to the north. The project continues the street pattern with landscaping along the building's frontage and storefront windows along the ground floor office space. The proposed building style matches the contemporary building styles of the surrounding industrial buildings.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: Under the provisions of Section 15303 (c) for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act, this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The temporary construction of the project would not have an unacceptable negative effect on adjacent property or properties because of City limitations on construction hours and standard permit conditions. The project will also implement standard permit conditions in accordance with City standards and regulations for construction and operation. The project is in compliance with the City's stormwater requirements and provides on-site bio-treatment. No odors are associated with the operation of the facility.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The proposed project would provide new landscaping along the project's perimeter that meets the landscape design requirements in the Industrial Design Guidelines. The trash enclosure will be screened by the 15-foot wide landscape strip along the front property line. The proposed building would conceal the rooftop equipment, plumbing and utility to upgrade the site's appearance.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: The proposed project conforms with the parking requirements set forth in the Zoning Ordinance for a warehouse building. This site is accessible by a 26-foot driveway on San Jose Avenue. Adequate pedestrian access is provided via a walkway and paved areas connecting to the adjacent public sidewalk along San Jose Avenue.

7. **Demolition Findings.** Pursuant to Section 20.80.460 of the San José Municipal Code, prior to the issuance of the Site Development Permit, the Director shall determine whether the benefits of permitting the demolition of the existing buildings outweigh the impacts of the demolition. In making such a determination, the following criteria shall be considered:
- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - b. The failure to approve the permit would jeopardize public health, safety or welfare;
 - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
 - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
 - f. Rehabilitation or reuse of the existing building would not be feasible; and
 - g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The existing building on-site was constructed in around 1900 and is not a

building of historical significance. The demolition of the existing building would facilitate the construction of the project consistent with the industrial and commercial uses in the area, the General Plan and the Zoning District, as noted above. The demolition would not result in a nuisance, blight, or dangerous condition as the demolition would allow for the construction of the new mini-storage building.

8. **Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Tree Removal Permit, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.
- That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of Chapter 13.32 of the San José Municipal Code as set forth in Section 13.32.010;
 - That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;
 - That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: The project proposes to remove one ordinance-size tree and 12 non-ordinance size trees. These trees are located in the proposed building footprint and driveway. The required # of replacement trees are 16 15-gallon trees. The project would plant four 24-inch box trees, equal to eight 15-gallon trees. The rest of the eight 15-gallon trees will be planted off-site. The Permittee is required to pay \$6,040 (\$755 x 8) off-site tree replacement fee (Condition #9) prior to the issuance of Public Works grading permit(s).

9. **Environmental Review.** Under the provisions of Section 15303 (c) New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Site Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303 applies to projects that consist of small new construction, or the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure. CEQA Guidelines Section 15303 (c) includes the following criteria: A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

Analysis: The project site is within an urbanized area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The

propsoed project includes one 5,948-square foot warehouse building and would not involve the use of significant amounts of hazardous substances. Therefore, CEQA Guidelines Section 15303(c) applies.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically four (4) years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Conditional Use Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by permittee shall constitute acknowledgement of receipt of notice by permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the

State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit Amendment plans entitled, “Site Development Permit, H18-023, For a New Warehouse Building at 291 San Jose Avenue, San Jose, CA ” dated revised on March 17, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San Jose General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San Jose.

The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

7. **Demolition Permit.** A demolition permit may be issued for the buildings and structures indicated on the Approved Plans only upon the issuance of a Building Permit for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
8. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Public Works Grading Permit has been issued.
9. **Replacement Trees.** The project requires 16 15-gallon replacement trees. Four 24-inch box trees are required to be planted on site. The permittee shall pay \$6,040 (\$755 x 8) for off-site replacement tree fee to the City, prior to the issuance of Public Works grading permit(s). The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager, to verify compliance with said replacement requirements. Such evidence shall be labeled "File Number H18-023" and provided to the Planning Project Manager, prior to the issuance of any Building Permits or any Public Works clearances.

10. **Permit Posting.** Prior to commencement of and during removal of any ordinance-size tree pursuant to this Permit, the permittee shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
 - a. The copy of the Permit shall be a minimum size of 8.5 inches by 11.0 inches; shall be posted at each public street frontage within two feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the Permit is readable from the public sidewalk or right-of-way; or
 - b. If the site does not have a public street frontage, a copy of the Permit shall be posted at a location where the Permit is readable from a common access driveway or roadway.
11. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this Permit, the permittee shall maintain the validated Permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
12. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
13. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
14. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
15. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
16. **No Sign Approval:** Any signage shown on the approved plan set are conceptual only. No signs are approved at this time. Any additional signage shall be subject to the review and approval by the Director of Planning through a subsequent Permit Adjustment.
17. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
18. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.

19. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
20. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
21. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
22. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
23. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
24. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
25. **Storm Drain Protection.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
26. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
27. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
28. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
29. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
 - a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

b. Transportation:

- i. In alignment with State of California Senate Bill 743 (SB743), the City of San Jose Policy, Transportation Impact Policy - Council Policy 5-3 has been replaced with a new Transportation Analysis Policy - Council Policy 5-1. Council Policy 5-1 replaces the transportation impacts threshold from Level of Service (LOS) under Council Policy 5-3 to Vehicle Miles Traveled (VMT).
- ii. This project would not require a detailed CEQA transportation analysis because the project is expected to result in less-than-significant VMT impacts. Furthermore, no additional transportation analysis is required.

c. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.
- d. Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures and source controls to minimize stormwater pollutant discharges.
- e. Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- h. Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to San Jose Avenue prior to issuance of a Public Works Clearance. (100%) of the base fee in place at the time of payment will be due. Currently, the 2020 base fee is \$515 per linear foot of frontage and is subject to change every January 31st

based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.

i. **Street Improvements:**

- i. Construct curb, gutter, and 10' wide attached sidewalk with tree wells along San Jose Avenue project frontage. An approximate 6' street dedication is required.
- ii. Construct roadway curb-to-curb width of 36' on San Jose Avenue project frontage.
- iii. Proposed driveway width to be 26' wide city standard driveway.
- iv. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- v. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- vi. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.

j. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

k. **Street Trees:**

- i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of walk. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

30. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, **H18-023** shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building

permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

31. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **6th day of May, 2020**

Rosalyn Hughey, Director
Planning, Building, and Code Enforcement

Deputy